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Hartmut S. Engel

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EXAMINER

TSIDULKO, MARK

ART UNIT

PAPER NUMBER

2875

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/539,932	Applicant(s) ENGEL, HARTMUT S.	
	Examiner MARK TSIDULKO	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/23/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-16 is/are rejected.
- 7) ☒ Claim(s) 8, 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/16/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>092305</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The submission of amendment filed on 10/23/2008 is acknowledged. At this point claims 3, 5-7, 9-16 have been amended and the remaining claims left unchanged. Thus, claims 1-16 are at issue in the instant application.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show *additional reflector 7"* as described in the specification (page 13, line 23) and *first and second reflector regions adjoin one another* (claim 9). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

Art Unit: 2875

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: details indicated in drawings with reference characters [14'], [16], [17] and [18] are not found in the specification. Further, Fig.3 is not reviewed in the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al. (US 7,014,341) in view of Stewart (US 2,244,737).

Referring to Claims 1, 2, 5, 7, 11 and 12 King et al. disclose (Fig.19) a built-in lighting device for securing in a room ceiling, including a bulb, a first reflection region (outer reflector) [188] and a second reflection region (inner reflector) [182], which can be released from the first reflection region [188]. King et al. also teaches the use of cover plate released together with the inner reflector [182] (col.8, lines 66, 67), but do not disclose a structure of the plate.

Art Unit: 2875

Stewart discloses (Figs.11, 12) a lighting fixture including a cover [31] made of transparent material (page 2, left column, lines 5, 6), secured to the frame of the device, and having a direct light region [60] surrounded by a diffuse (scattering) light region [61]. As shown in Fig.12, the cover [31] can be completely released from the reflector region. In addition, regarding claim 11, as shown in Fig.12, the direct light region [60] and diffuse light region [61] are acted on by a common bulb [67]. Regarding claim 12, providing the cover of Stewart for the lamp of King et al., will allow to obtain the structure, wherein diffuse light region [61] of the cover will be located between the second reflector region [182] and additional reflector [186], therefore acted indirectly via additional reflector by a bulb disposed above the reflector.

Using the cover of this structure allows obtaining illumination with different light distribution patterns and closing the opening in the lamp in dust-proof manner.

Referring to Claim 3 one having ordinary skill in the art would have recognized to provide the lens of Stewart covering whole opening of the lighting device of King et al. to transmit the light reflected from both, inner and outer reflectors.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the cover plate of the device of King et al., with diffusion region, as taught by Stewart, in order to obtain different light distribution pattern, for the purpose of decorative appearance. Further, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the lens of Stewart covering whole opening of the lamp of King et al., in order to transmit the light reflected from both, inner and outer reflectors.

Art Unit: 2875

Referring to Claim 4, while Stewart does not disclose a cover having opening, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the lamp of King et al. with the cover of the device of Stewart, having an opening in the central portion, as an alternative structure, as necessitated by the specific requirements of a given application, because the opening does not change the functionality of the lamp.

Referring to Claim 6 King et al. disclose (Fig.6) a housing [24], which is light-proof, because inner surface of the housing is coated with reflective paint, so that the light is more efficiently reflected through the inner and outer reflectors (col.9, lines 48-52).

King et al. disclose the instant claimed invention except for releasable screws for cover plate.

Stewart discloses (Fig.12) a cover plate being attached to the frame by screws (not indicated by reference character, see near edge of cover [72]).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the cover plate being attached to the lamp of King et al. by screws, as taught by Stewart, in order to obtain stable position of the cover plate.

Referring to Claim 10 King et al. disclose (Fig.16) a light passage region [112] formed between two reflectors [106] and [114].

Referring to Claim 13 King et al. disclose (Fig.19) an additional reflector [188] formed by a curved surface.

Referring to Claim 14 King et al. disclose that the housing can function as an additional reflector, having a highly specular reflector in its upper portion (col.8, lines 58-61).

Art Unit: 2875

Referring to Claim 15 King et al. disclose (Fig.19) an upper portion of the second reflector [182] having a cut-out.

Referring to Claim 16 King et al. disclose (Fig.16) a bulb [108] having elongated shape.

I would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the housing of the lamp of King et al. having a parallelepiped shape, as necessitated by the specific requirements of a given application, since it has been held by the courts that a change in shape or configuration, without any criticality, is nothing more than one of numerous shapes that one of ordinary skill in the art will find obvious to provide based on the suitability for the intended final application. See *In re Dailey*, 149 USPQ 47 (CCPA 1976). It appears that the disclosed device would perform equally well with the housing being parallelepiped shaped.

Allowable Subject Matter

Claims 8, 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Referring to Claim 8 the prior art of record fails to show that the housing is terminated in dust-proof manner by the second reflector region releasably secured together with plate to the housing.

Referring to Claim 9 the prior art of record fails to show that the first and second reflector regions adjoin one another

Art Unit: 2875

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571) 272-2384. The examiner can normally be reached on 9:30 – 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M.T./
July 10, 2009

/Ricky L. Mack/
Supervisory Patent Examiner, Art Unit 2873